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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,321	07/23/2001	Kenichi Myokan	0941.65715	3590

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EXAMINER

MILLER, BRIAN E

ART UNIT	PAPER NUMBER
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2652

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DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/911,321

Applicant(s)

MYOKAN ET AL.

Examiner

Brian E. Miller

Art Unit

2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-7 and 11-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7 and 11-25 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2652

Claims 1-7, 11-25 are now pending.

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

2. Claims 1-3, 5-7, 11-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Genheimer (US 5,801,899). (As per claims 1, 11 & 17) Genheimer shows in FIGs. 3-5, a disk unit for reading information from or writing information to a disk 18 by means (the transducer) of a head 28 supported by an actuator 20, the disk 18 and the actuator 20 being contained in a housing 10 of the disk unit, the disk unit comprising a shroud (first member) 46 (see col. 5, lines 49-56) having a face perpendicular to a surface of the disk 18 and opposing a peripheral edge of the disk, a “spoiler” (second member) 100b having a given height in a direction perpendicular to the surface of the disk and extending above the surface of the disk from the peripheral edge and generally toward a center of the disk (element 102A in FIG. 3); (as per claims 2-3, 12-13, 18) wherein the shroud and spoiler are respectively positioned in a counter-rotational direction to the disk; (as per claims 5 & 14) wherein the shroud 46 and the spoiler 100 are formed integrally with each other (see FIG. 5); (as per claim 6) wherein the face of the shroud is curved along the peripheral edge of the disk; (as per claim 7) wherein the face of the shroud is flat.

With respect to new claims 20-21, Genheimer, expressly meets these limitations as described above, and further regarding the length of the “tooth” extending from the upright part toward the center of the disk having a length between 1mm and 25 mm, it is considered to be encompassed by Genheimer. At col. 4, lines 54-61, Genheimer specifically recites that the

horizontal arms 102 must extend sufficiently into the stack of discs 18 to constrain vertical deflection of the discs and that they preferably do not extend to the recording surfaces of the discs. As the recording surfaces are *at least* 1 mm inward of the peripheral edge of the disc, it is considered, that Genheimer meets this dimensional limitation.

With respect to claims 22-25, Genheimer, expressly meets these limitations as described above, and further regarding the spoiler material being formed of a metal or resin material, e.g., stainless steel, aluminum alloy, and polycarbonate, Genheimer discloses that the “snubber” could be formed of a non-marring material, i.e., a plastic, e.g., polycarbonate, which encompasses the claimed limitation.

Allowable Subject Matter

3. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed 4/08/04 have been fully considered but they are not entirely persuasive.

A...Applicants' argument with respect to claim 4 (bottom of page 10 to page 12 in the “REMARKS” section) showing unobvious and/or unexpected results, is considered persuasive and thus this claim has been indicated as allowable.

B... With respect to claims 1, 11 & 17, applicants' assert the “snubber” of Genheimer functions as a shock absorber and therefore would not function as a spoiler as in the present invention.

Art Unit: 2652

In response, the Examiner maintains that the snubber of Genheimer would also function as a spoiler, as required by the recited claims. The structure of Genheimer's snubber is considered to be identical to the structure of the claimed spoiler, and thus nothing in the claims precludes the use of the snubber in Genheimer as a spoiler. It is considered that because of the positioning of the snubber in Genheimer and the aforementioned structure thereof, it would at least inherently also provide wind resistance and airflow changes, like that of a spoiler. The claims do not recite any structure that would obviate the snubber acting like a spoiler as disclosed by Genheimer. C...New claims 20-21 recite a certain length of a "tooth" of the spoiler, and claims 22-25 claim the material of the spoiler, however, as described above, these limitations are also considered to be encompassed by Genheimer.

Conclusion


5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Miller whose telephone number is (703) 308-2850. The examiner can normally be reached on M-TH 7:15am-4:45pm (and every other friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brian E. Miller
Primary Examiner
Art Unit 2652

Bem
June 28, 2004